

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

**DANNY MANZANARES,**

**Plaintiff,**

VS.

Civil No. 05-00095 JP/LFG

**SEAN HIGDON, an Officer of the  
Albuquerque Police Department,  
Individually,**

## Defendant.

## **CLERK'S ORDER SETTLING COSTS**

**THE CLERK**, pursuant to Local Rule 54 of the Rules of the United States District Court for the District of New Mexico, effective December 1, 2009, and after reviewing Plaintiff's Motion to Tax Costs and Memorandum in Support Thereof [Doc. No. 166], filed February 8, 2010, and Defendant's Response in Opposition to Plaintiff's Motion to Tax Costs, filed April 8, 2010, finds as follows:

## **1. Description: Filing Fee.**

Allowed: XX      Dollar Amount: \$190.00

Comments: Title 28 U.S.C. § 1920(1) provides that “[f]ees of the clerk” may be taxed as costs.

Accordingly, this cost is allowed.

## **2. Description: Subsistence (A. Stoker).**

Disallowed: XX      Dollar Amount: \$2,529.62

Comments: The Local Rules do not allow recovery of costs incurred by trial counsel for subsistence.

This cost is therefore disallowed.

**3. Description: Travel and Subsistence (D. Montoya).**

Disallowed: XX                      Dollar Amount: \$517.12

Comments: See ¶ (2) above.

**4. Description: Trial Transcripts.**

Disallowed: XX                      Dollar Amount: \$1,208.00  
  1,649.91  
  429.10

Comments: Plaintiff has failed to make a showing that the transcripts were authorized in advance or requested by the Court. Therefore, these costs are disallowed. D.N.M.LR-Civ 54.2(a).

**5. Description: Deposition (S. Higdon).**

Allowed: XX                      Dollar Amount: \$337.33

Comments: The cost associated with this deposition is deemed reasonably necessary to the litigation as the deposed person in question testified at trial and the deposition was used for trial and cross-examination preparations. D.N.M.LR-Civ. 54.2(b)(2)(A).

**6. Description: Depositions (J. Morales, M. Lopez, M. Curtis, C. Chester, D. Saladin).**

Disallowed: XX                      Dollar Amount: \$256.57  
  463.99  
  164.72

Comments: Plaintiff has made no showing that these depositions were reasonably necessary to the litigation nor did any of the deponents in question testify at the second trial. Accordingly, the costs are disallowed.

**7. Description: Process Server Fees.**

Allowed: XX                      Dollar Amount: \$212.76

Comments: The costs associated with fees for service of subpoenas of the marshal are recoverable. 28 U.S.C. § 1920(1) and 28 U.S.C. § 1921(B). The U.S. Marshal no longer serves most subpoenas and courts have accordingly construed § 1920(1) to allow the taxation of costs for private process servers.

#### **8. Description: Investigator Fees.**

Disallowed: XX      Dollar Amount: \$220.55

Comments: Costs incurred for the purposes of investigation are not recoverable under the Local Rules.

### **9. Description: Parking Fees.**

Comments: Under the Local Rules, attorney expenses incidental to client representation are not recoverable as court costs.

**TOTAL COSTS ALLOWED:** \$ 740.09

**TOTAL COSTS DISALLOWED:** **\$7,459.59**

**ACCORDINGLY**, costs are taxed against Defendant and in favor of Plaintiff in the amount of \$740.09. A motion for review by the Court, if desired, shall be made within seven days of this order.

Matthew J. Dykman, Clerk of Court  
United States District Court